

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Robert F. Ponte,

Plaintiff,

v.

Case No. 12-13901

Chase Bank USA, N.A., *et al.*,

Honorable Sean F. Cox

Defendants.

ORDER DENYING WITHOUT PREJUDICE
PLAINTIFF'S MOTION TO FILE SECOND AMENDED COMPLAINT

On September 4, 2012, Plaintiff Robert F. Ponte, an attorney representing himself, filed this action against Defendants. Plaintiff's original complaint contained the following counts: "Breach of Implied Covenant of Good Faith and Fair Dealing", labeled as "First Cause of Action"; "RICO", labeled as "Second Cause of Action"; "TILA", labeled "Third Cause of Action,"; "Michigan Collection Practices Act", labeled as "Fourth Cause of Action"; "Michigan Consumer Protection Act", labeled as "Fifth Cause of Action"; "Fair Debt Collection Practices Act", labeled as "Sixth Cause of Action"; and "Michigan Consumer Protection Act", labeled as "Seventh Cause of Action." (Docket Entry No. 1).

On September 25, 2012, this Court issued an Order declining to exercise supplemental jurisdiction over Plaintiff's state-law claims and dismissed Plaintiff's First, Fourth, Fifth, and Seventh causes of action without prejudice. (Docket Entry No. 7).

On March 19, 2013, Plaintiff filed: 1) an Amended Complaint (Docket Entry No. 26), which asserts a state-law claim for breach of implied covenant of good faith and fair dealing,

along with state-law claims based upon the Michigan Collection Practices Act and the Michigan Consumer Protection Act; and 2) a “Motion To Retain Supplemental Jurisdiction Over All State Law Claims” (Docket Entry No. 27).

In an Order issued on April 8, 2013, this Court denied Plaintiff’s Motion to Retain Supplemental Jurisdiction and again dismissed Plaintiff’s state-law claims. Thus, only Counts II (RICO) and II (TILA) of Plaintiff’s Amended Complaint remain.

Defendants currently have two Motions to Dismiss pending before this Court, Docket Entry Nos. 29 and 31. On April 26, 2013, Plaintiff filed briefs in opposition to both of those motions. (Docket Entry Nos. 36 & 37).

Nevertheless, on that same date, Plaintiff also filed a “Motion for Leave to Amend Complaint” (Docket Entry No. 38), wherein Plaintiff states that he “requests leave of this Honorable Court to amend his Complaint, *insofar as this Court may deem needed*, to fully convey the elements of [Plaintiff’s] claims to these Defendants.” (*Id.* at 4) (emphasis added). Plaintiff thus asks this Court to grant him leave to file a Second Amended Complaint but, in violation of Local Rule 15.1, Plaintiff has not attached a copy of his proposed Second Amended Complaint.

Plaintiff is not entitled to an advisory opinion from this Court informing him of the deficiencies in his Amended Complaint and then an opportunity to cure those deficiencies. *Begala v. PNC Bank*, 214 F.3d 776, 784 (6th Cir. 2000); *Louisiana Sch. Emp. Ret. Sys. v. Ernst & Young, LLP*, 622 F.3d 471, 486 (6th Cir. 2010).

The Court hereby **DENIES** Plaintiff’s Motion for Leave to Amend **WITHOUT PREJUDICE**. If Plaintiff desires to file a Second Amended Complaint, Plaintiff shall file a

Motion seeking leave to file a Second Amended Complaint no later than **May 15, 2013**, and **shall attach a copy of his proposed Second Amended Complaint.**

If Plaintiff does not file a Motion seeking leave to file a Second Amended Complaint by May 15, 2013, then this Court shall proceed with the pending Motions to Dismiss.

If Plaintiff files a Motion seeking leave to file a Second Amended Complaint by May 15, 2013, then Defendants shall file any response briefs opposing that motion by **June 5, 2013**. In that event, this Court would consider the motions to dismiss in light of Plaintiff's proposed amendments and determine whether the deficiencies in the complaint are cured by the proposed amendments. *Begala v. PNC Bank*, 214 F.3d at 784.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: May 7, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on May 7, 2013, by electronic and/or ordinary mail.

S/Jennifer McCoy

Case Manager